

# Exhibit L

(previously filed as Dkt. 660-12)

**In the Matter Of:**

*United States vs*

*Google*

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*MARK ISRAEL, PH.D.*

*March 14, 2024*

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<p>Page</p> <p>1 Q. And how do you determine what ad --</p> <p>2 what types of advertising should be included in</p> <p>3 the relevant market?</p> <p>4 A. Well, the burden, as I understand</p> <p>5 it, that would be on Plaintiffs' experts would be</p> <p>6 to show that they include enough to capture</p> <p>7 enough substitution to satisfy a hypothetical</p> <p>8 monopolist test.</p> <p>9 BY ATTORNEY NAKAMURA:</p> <p>10 Q. And do you agree that the</p> <p>11 hypothetical monopolist test is the right</p> <p>12 theoretical framework to use in this matter to</p> <p>13 determine the boundaries of a relevant product</p> <p>14 market?</p> <p>15 ATTORNEY EWALT: Objection to</p> <p>16 form.</p> <p>17 THE WITNESS: I think it's part</p> <p>18 of it. It's not all of it. It's -- but</p> <p>19 it's a piece of how you analyze markets.</p> <p>20 BY ATTORNEY NAKAMURA:</p> <p>21 Q. And what, then, are the other parts</p> <p>22 of what you would use to determine the boundaries</p>	<p>Page</p> <p>1 the most important constraints, not skipping over</p> <p>2 any to get to more distant constraints.</p> <p>3 Q. And what role, if any, does</p> <p>4 substitution in purchases make in helping you</p> <p>5 determine whether or not the Plaintiffs have</p> <p>6 proposed a proper relevant market for this case?</p> <p>7 A. I mean, things that are potential</p> <p>8 substitutes for advertisers or for publishers,</p> <p>9 probably to some degree for users -- although we</p> <p>10 can talk about that more -- are potentially</p> <p>11 products that should be in the market. And so if</p> <p>12 you find that there -- there's evidence of</p> <p>13 substitution by those -- one of the -- one or</p> <p>14 more of those parties and you find that the</p> <p>15 decision whether or not to include that product</p> <p>16 in your market matters to your conclusions, then</p> <p>17 my opinion is Plaintiffs would need to do the</p> <p>18 work to determine whether that product should be</p> <p>19 in or out based on the hypothetical monopolist</p> <p>20 test. And they have not done that work.</p> <p>21 Q. And when you say -- I want to --</p> <p>22 strike that.</p>
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<p>Page</p> <p>1 of a relevant product market?</p> <p>2 A. I mean, for me, the overarching</p> <p>3 rule of all of it is you define the market that</p> <p>4 best captures the competitive alternatives and</p> <p>5 the competitive constraints relative to the</p> <p>6 conduct at issue. The -- so you need a -- a</p> <p>7 market definition that lets you analyze, in this</p> <p>8 case, what it -- what are the constraints on</p> <p>9 Google and the behavior described in the case.</p> <p>10 That's a broad economic framework</p> <p>11 but -- but one that I think guides everything.</p> <p>12 Hypothetical monopolist test is, then, a piece.</p> <p>13 Other pieces would include what I've called "the</p> <p>14 circle principle" in other cases, that you don't</p> <p>15 skip over a closer competition to include more</p> <p>16 distant competition.</p> <p>17 It would also -- I think that's --</p> <p>18 those are the ones I can think of. There may be</p> <p>19 more. But I think you -- the key is that it</p> <p>20 explains competition, and within that, you'd want</p> <p>21 to make sure it satisfies a hypothetical</p> <p>22 monopolist test and make sure that it includes</p>	<p>Page</p> <p>1 I want to understand more about</p> <p>2 what you mean by "potential substitutes for</p> <p>3 advertisers" first.</p> <p>4 Is it the case, in your</p> <p>5 opinion, that any substitution whatsoever, even</p> <p>6 one unit, would satisfy the criteria for -- for</p> <p>7 inclusion in the proper relevant market, in your</p> <p>8 opinion?</p> <p>9 ATTORNEY EWALT: Objection to</p> <p>10 form.</p> <p>11 THE WITNESS: No, I'm not saying</p> <p>12 any substitution means it's in the</p> <p>13 market. I'm saying if there's reasonable</p> <p>14 evidence in the record that it is a</p> <p>15 substitute, then -- and it matters to</p> <p>16 your conclusions, then it's Plaintiffs'</p> <p>17 job to decide if it's in or it's out.</p> <p>18 And they have not done that for a large</p> <p>19 number of products for which there is</p> <p>20 clear evidence in the record of</p> <p>21 substitution.</p> <p>22</p>

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<p>Page</p> <p>1 BY ATTORNEY NAKAMURA:</p> <p>2 Q. I appreciate your further</p> <p>3 commentary on what you believe Plaintiffs have</p> <p>4 done, but that was not my question. My</p> <p>5 question -- well, I guess I'll move to another</p> <p>6 question.</p> <p>7 My question is, What degree of</p> <p>8 substitution would be sufficient, in your view,</p> <p>9 by advertisers to lead you to the conclusion that</p> <p>10 a particular type of advertising should be</p> <p>11 included in a relevant proper market in this</p> <p>12 case?</p> <p>13 ATTORNEY EWALT: Objection to</p> <p>14 form.</p> <p>15 THE WITNESS: I mean, I can't</p> <p>16 answer these without referring to</p> <p>17 Plaintiffs because it's -- what I'm</p> <p>18 commenting on is whether Plaintiffs have</p> <p>19 met their burden to define a market.</p> <p>20 The degree of substitution would</p> <p>21 be to show that one can omit that</p> <p>22 product -- demonstrate one can omit that</p>	<p>1 very likely that you would need to</p> <p>2 include social media and that you would</p> <p>3 need to include in-app, for example.</p> <p>4 But, again, my main point is that</p> <p>5 those are strong substitutes, whether you</p> <p>6 include them or not makes a big</p> <p>7 difference, and Plaintiffs have done</p> <p>8 nothing to justify leaving them out.</p> <p>9 BY ATTORNEY NAKAMURA:</p> <p>10 Q. Do you believe that audio</p> <p>11 advertisements that play on a Web page should</p> <p>12 have been included in Plaintiffs' market?</p> <p>13 A. Audio advertisements? The report</p> <p>14 comments on audio particularly, so I don't think</p> <p>15 I have an opinion one way or the other, not one</p> <p>16 that I advance. It's in the category of ones I</p> <p>17 think should be tested to make sure that you've</p> <p>18 -- the Plaintiffs have included enough, but I --</p> <p>19 I haven't offered an affirmative opinion about</p> <p>20 audio.</p> <p>21 Q. Do you believe it would have been</p> <p>22 possible, given the data and documents in this</p>
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<p>Page</p> <p>1 product and still satisfy the</p> <p>2 hypothetical monopolist test and the</p> <p>3 circle principle and still adequately</p> <p>4 capture the set of products that are</p> <p>5 important competitive constraints on</p> <p>6 Google.</p> <p>7 BY ATTORNEY NAKAMURA:</p> <p>8 Q. Are there products for which you</p> <p>9 offer an opinion that you believe that these</p> <p>10 advertising products should at least be included</p> <p>11 in Plaintiffs' relevant market that are currently</p> <p>12 not part of that market definition?</p> <p>13 ATTORNEY EWALT: Objection to</p> <p>14 form.</p> <p>15 THE WITNESS: Again, I -- I</p> <p>16 haven't gone and done the hypothetical</p> <p>17 monopolist test on each of those because</p> <p>18 Plaintiffs haven't and I have nothing to</p> <p>19 respond to.</p> <p>20 I think the report speaks for</p> <p>21 itself and will do better than I. The</p> <p>22 report says strongly that I think it's</p>	<p>1 case, to have tested for whether audio</p> <p>2 advertisements could have been properly included</p> <p>3 in a relevant market in this case?</p> <p>4 ATTORNEY EWALT: Objection to</p> <p>5 form and foundation.</p> <p>6 THE WITNESS: I mean, I leave it</p> <p>7 some to Plaintiffs for how they would go</p> <p>8 about doing tests they haven't done.</p> <p>9 But, in general, you -- you -- the</p> <p>10 hypothetical monopolist test doesn't</p> <p>11 require you to have data on every</p> <p>12 possible product. It requires you to</p> <p>13 actually test that the products you've</p> <p>14 included are enough.</p> <p>15 BY ATTORNEY NAKAMURA:</p> <p>16 Q. At a minimum, how would you</p> <p>17 describe what the -- what the hypothetical</p> <p>18 monopolist test requires with respect to data?</p> <p>19 ATTORNEY EWALT: Objection to</p> <p>20 form.</p> <p>21 THE WITNESS: Oh, I don't -- I</p> <p>22 don't think there's any specific rule</p>

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<p>1 about what data you need that you can --</p> <p>2 I mean, there are a variety of ways to do</p> <p>3 the test: by looking at evidence on</p> <p>4 what's actually happened to prices, by</p> <p>5 looking on whatever evidence you have of</p> <p>6 substitution.</p> <p>7 Economists are certainly in the</p> <p>8 business of trying to predict price</p> <p>9 effects based on the best data that we</p> <p>10 can have. Hypothetical monopolist test</p> <p>11 is basically saying Plaintiffs would need</p> <p>12 to do something to show that they have a</p> <p>13 reliable prediction of a price increase</p> <p>14 for a hypothetical monopolist of some</p> <p>15 market that they have defined. And</p> <p>16 Plaintiffs haven't done that.</p> <p>17 BY ATTORNEY NAKAMURA:</p> <p>18 Q. And is it your opinion that</p> <p>19 Plaintiffs have done nothing to provide a</p> <p>20 reliable prediction of a price increase for</p> <p>21 hypothetical market -- for a -- I'm sorry.</p> <p>22 Is it your opinion that</p>	<p>1 let me conclude that there could be -- that there</p> <p>2 would be a SSNIP in the absence of these other</p> <p>3 products.</p> <p>4 Q. And let me turn again to one type</p> <p>5 of advertising that you have said in your reports</p> <p>6 ought to have been included in Plaintiffs'</p> <p>7 market, and let me talk now about search</p> <p>8 advertising.</p> <p>9 Is it your opinion that search</p> <p>10 advertising should have been included in</p> <p>11 Plaintiffs' relevant markets in this case?</p> <p>12 ATTORNEY EWALT: Objection to</p> <p>13 form.</p> <p>14 THE WITNESS: I mean, I haven't</p> <p>15 done the test in this case for whether</p> <p>16 there would be a market around the</p> <p>17 products here that does or does not</p> <p>18 include search.</p> <p>19 My opinion, as I've stated</p> <p>20 elsewhere, is that search is a substitute</p> <p>21 for social, at least, and for parts of</p> <p>22 display, so I think the -- the most</p>
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<p>1 Plaintiffs' experts have done nothing to show</p> <p>2 that there would be a reliable prediction of a</p> <p>3 change in purchases as a result of a price</p> <p>4 increase?</p> <p>5 ATTORNEY EWALT: Objection to</p> <p>6 form.</p> <p>7 THE WITNESS: I'm sorry. I don't</p> <p>8 understand the question.</p> <p>9 BY ATTORNEY NAKAMURA:</p> <p>10 Q. Sure.</p> <p>11 What, if anything, have</p> <p>12 Plaintiffs done, in your opinion, that would</p> <p>13 satisfy any part of a hypo -- hypothetical</p> <p>14 monopolist test?</p> <p>15 A. I mean, I -- I'm happy to look at</p> <p>16 specific things. As I sit here, I -- I -- I</p> <p>17 can't see anything that they have done to show</p> <p>18 that, for example, there could be a SSNIP that</p> <p>19 doesn't include in-app or doesn't include social.</p> <p>20 The specific things you like me to</p> <p>21 comment on, the report probably does, and I'm</p> <p>22 happy to, but I certainly see nothing that would</p>	<p>1 likely market that I would arrive at</p> <p>2 would be -- would include search and</p> <p>3 would include all digital advertising.</p> <p>4 But as we know about market</p> <p>5 definition, it's specific to the conduct</p> <p>6 in a case and the set of products in the</p> <p>7 case, and you build out from those</p> <p>8 products, and I haven't tested here</p> <p>9 whether search would need to be in or out</p> <p>10 of the market that applies to this case.</p> <p>11 BY ATTORNEY NAKAMURA:</p> <p>12 Q. So what is your basis for your</p> <p>13 opinion that search should have been included by</p> <p>14 Plaintiffs' experts in the relevant market?</p> <p>15 ATTORNEY EWALT: Objection to</p> <p>16 form and foundation.</p> <p>17 THE WITNESS: I mean, search has</p> <p>18 been somewhat less the focus of this case</p> <p>19 just because the case starts from, you</p> <p>20 know, Google's display advertising and --</p> <p>21 and builds out; but, certainly, I've</p> <p>22 testified openly in public that search</p>

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<p>1 substitutes with other forms of digital</p> <p>2 advertising, so my opinion that --</p> <p>3 therefore, that leads me to the opinion</p> <p>4 that it's -- it's an important</p> <p>5 substitute.</p> <p>6 Certainly, somebody would have</p> <p>7 to -- you know, in proposing a market,</p> <p>8 it's an example of a form of digital</p> <p>9 advertising that Plaintiffs, you know,</p> <p>10 should have looked at.</p> <p>11 BY ATTORNEY NAKAMURA:</p> <p>12 Q. So the basis in this case for your</p> <p>13 opinion that search advertising is properly</p> <p>14 included in Plaintiffs' relevant market is your</p> <p>15 open public testimony in another case; is that</p> <p>16 correct?</p> <p>17 ATTORNEY EWALT: Objection to</p> <p>18 form.</p> <p>19 THE WITNESS: Again, to be clear,</p> <p>20 I'm not offering an opinion in this case,</p> <p>21 and I explicitly said I have not tested</p> <p>22 whether search needs to be in or any</p>	<p>1 advertising?</p> <p>2 A. Yeah, I believe so. There's</p> <p>3 bunches of them. I mean, they're -- they're in</p> <p>4 the appendix because they -- in the body. I work</p> <p>5 from display to the ones I mentioned, app and</p> <p>6 social. But I think in multiple paragraphs and</p> <p>7 footnotes and then in charts and tables that are</p> <p>8 in the appendix to the report, I add search.</p> <p>9 Q. And you add search for illustrative</p> <p>10 purposes only; is that correct?</p> <p>11 A. I mean, I -- I show a variety of</p> <p>12 shares throughout the report to demonstrate the</p> <p>13 point I've been making to you, which is that</p> <p>14 whether or not you include products is</p> <p>15 consequential, and Plaintiffs haven't considered</p> <p>16 them. So I include search in the same way I</p> <p>17 include everything, as -- as a calculation of a</p> <p>18 share for a market that Plaintiffs should have</p> <p>19 considered and did not.</p> <p>20 Q. So why, in your opinion, is search</p> <p>21 relevant if you have done no work to show that it</p> <p>22 is a meaningful substitute -- I'm sorry -- to</p>
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<p>1 specific other form needs to be in. I</p> <p>2 said they matter; they're a strong</p> <p>3 substitution; Plaintiffs haven't done the</p> <p>4 work.</p> <p>5 So I'm not testifying as my</p> <p>6 opinion in this case that you have to</p> <p>7 include search. I'm telling you, based</p> <p>8 on what I've said elsewhere, I think</p> <p>9 search is a substitute for other digital</p> <p>10 advertising, so if you -- if you ask me</p> <p>11 should it be in, it's likely a substitute</p> <p>12 that at least needed to be considered.</p> <p>13 But I'm not offering an</p> <p>14 affirmative opinion in this case,</p> <p>15 starting from the products in this case,</p> <p>16 that says search does or doesn't need to</p> <p>17 be in this case.</p> <p>18 BY ATTORNEY NAKAMURA:</p> <p>19 Q. And so in your report, do you have</p> <p>20 any graphs, tables, figures or analyses that</p> <p>21 includes search advertising in the calculation of</p> <p>22 a potential market share that includes search</p>	<p>1 show that it is a substitute for display</p> <p>2 advertising, as Plaintiffs have defined it?</p> <p>3 A. It's a form of digital advertising</p> <p>4 that, you know, I have discussed openly, as I</p> <p>5 said, substitutes for at least some other forms</p> <p>6 of display advertising. So I -- I tried to be</p> <p>7 complete here by including the various forms of</p> <p>8 digital advertising.</p> <p>9 Again, I haven't done just -- I</p> <p>10 haven't done one that just includes video or just</p> <p>11 includes direct. I've tried to say that each of</p> <p>12 these categories of advertising that Plaintiffs</p> <p>13 have not shown can be left out matter, and search</p> <p>14 is an example.</p> <p>15 Q. And so I understand that you were</p> <p>16 retained by Google as a testifying economic</p> <p>17 expert in the search litigation that went on in</p> <p>18 the District of Columbia Federal Court; is that</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. And is all the testimony that you</p> <p>22 provided in that case fully and completely</p>

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Page	Line	Change	Reason
417	22	“make up the” should be “makeup, the”	Transcription error.
418	1	“the respondents looks” should be “the respondents, looks”	Transcription error
420	8	“Demand” should be “demand”	Transcription error.
446	13	“features including” should be “features—including”	Transcription error.
446	14	“auctions into” should be “auctions—into”	Transcription error.
453	4	“DFP -- DSPs” should be “DSPs”	Clarification.
453	9	“mil” should be “mille”	Transcription error.
453	11	“rate. So” should be “rate, so”	Transcription error.
456	7	“DF360” should be “DV360”	Transcription error.
456	18	“DFP360” should be “DV360”	Transcription error.
456	21	“advertising Google Ads” should be “advertising, Google Ads”	Transcription error.
468	17	“ads clients (e.g., agency” should be “Ads clients (e.g., Agency”	Transcription error.
468	18	“direct advertiser” should be “Direct Advertiser”	Transcription error.
469	1	“ads” should be “Ads”	Transcription error.
470	22	“ads” should be “Ads”	Transcription error.
477	12	“a ad server” should be “an ad server”	Clarification.
482	13	“Demand” should be “demand”	Transcription error.

I have inspected and read my deposition and have listed all changes and corrections above, along with my reasons therefor.

Date: 4/10/2024

Signature: Mak A. [Signature]